

REMARKS

Claims 1 and 3 remain pending in this application. Claim 1 has been amended. No new matter has been added.

Claims 1 and 3 remain rejected under 35 USC 103(a) on Caenen (FR 2,718,635) in view of Heldreth (EP 0 636 352). In the Response to Arguments section, the Examiner states:

Applicant's arguments with respect to the direction of insertion are not persuasive since terms such as medial, lateral, dorsal and ventral are only relative terms, depending on the reference point or axis. Further, Applicant's arguments with respect to how the device of Caenen et al. is inserted are not relevant, since the claims are directed to an apparatus and not a process.

Applicant respectfully disagrees. Applicant notes that the relative terms identified by the Examiner were definite and due proper consideration since they were recited in reference to an implanted position of the claimed prosthesis. Such terms in the claimed context are unambiguous and would be clearly understood by one or ordinary skill in the art. See MPEP 2173.05(b). Further, Applicant's arguments with respect to how the devices of Caenen and Heldreth are inserted are indeed relevant, since how those devices are configured to be inserted provides the necessary context for comparing the claimed structure with the cited structures in view of the properly recited relative terms identified above.

Nonetheless, in consideration of the Examiner's issues with the relative terms identified above and in an effort to expedite prosecution, Applicant has amended claim 1 to recite the claimed invention in a slightly different manner. Claim 1 now recites a connection profile on a prosthesis core that is disposed on a leading edge and two lateral edges relative to an implanted position of the prosthesis. The leading edge has a triangular configuration with a single tip projecting outward beyond the lateral edges. The leading edge comprises a pair of first profile sections that are substantially straight and form sides of the triangular configuration that meet at an angle not greater than 150°. The lateral edges comprise a pair of second profile sections that are arranged in an anteroposterior direction relative to the implanted position.

Neither Caenen nor Heldreth disclose a connection profile on a leading edge and two lateral edges such that the leading edge has a triangular configuration with a single tip projecting outward beyond the lateral edges as claimed. Rather, Caenen lacks any disclosure about a single tip as acknowledged by the Examiner, and Heldreth discloses an opposite configuration – namely, an inward pointing tip.

Further, the Examiner states that it would have been obvious to combine Heldreth with Caenen "for the predictable result of better engagement of the prosthesis components." Applicant respectfully disagrees. Even if Heldreth were combined with Caenen, the resulting combination would not lead to the "predictable result of better engagement of the prosthesis components" as indicated by the Examiner. Rather, for at least two reasons such a combination would lead to a much inferior prosthesis that is likely to fail and lacks the advantages of the claimed invention.

The first reason pertains to unwanted rotational movement or play. In Heldreth, the tip is located near the center of area of the core which produces a small moment arm and a poor stabilizing effect. Accordingly, the inward pointing tip of Heldreth does not prevent the core from wiggling. The core of Heldreth can therefore wear out much more quickly. Additionally, the inward pointing tip can weaken the supporting structure as it forms a central cavity. In contrast, having the tip projecting outward in accordance with the claimed invention can maximize the distance between the tip and the core's center of area (around which wiggling would happen). A larger distance provides a better moment arm for the stabilizing force exerted by the tip.

The second reason pertains to debris removal. In Heldreth, as the core is to be inserted in situ (i.e., when the prosthesis plates are implanted), precise positioning can be hindered because body fluids, flocks of tissue or other debris can contaminate the space into which the core should be inserted. This can be a serious problem restricting access and thorough cleaning. For instance, the inward facing tip of Heldreth can collect and trap debris, eventually blocking

further insertion by the potentially strong forces of hydraulic lock. While the resistance to insertion is undesirable in itself, a surgeon can be fooled by these forces into thinking that the core has already reached its final position, which can be dangerous. In contrast, the forward projecting tip of the claimed invention can act like a snow-plow and push any debris sideways where it can flow out, allowing the core to be positioned accurately.

Accordingly, combining Heldreth with Caenen would not lead to the "predictable result of better engagement of the prosthesis components" as indicated by the Examiner, but rather result in a configuration through which implantation may be more complicated, error prone and require more time, and the prosthesis core may wear out or break prematurely. One of ordinary skill in the art would not have had a reason to combine Heldreth with Caenen to arrive at the claimed invention.

Therefore, because Caenen and Heldreth do not teach or suggest, either individually or collectively, all of the elements required by claim 1, the rejection of claims 1 and 3 should be withdrawn.

In view of the above, early action allowing claims 1 and 3 is solicited.

In the event the Patent and Trademark Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing Docket No. **246472005200**.

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